IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 19028 of 1995

Between:

Yadagiri Laxminarasimha Swamy Modern Rice Mill, Yacharam, Anumula Mandal, Nalgonda District rep. By its Managing Partner D. Yadagiri Reddy.

..... PETITIONER

AND

1. Assistant Divisional Engineer, Operation and Construction, APSEB, Miryalguda, nalgonda District.

2. Superintending Engineer, Operation, Andrha Pradesh State Electricity Board, Nalgonda.

3. Chief Engineer, Appellate Authority, Andhra Pradesh State Electricity Board Vidyouthsouda, Somajiguda, Hyderabad.

(petition dismissed for default against Respondents 2 and 3 vide court order dated 19.7.2000)

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the proceedings dated 4.8.1995 in Lr.No. ADE/O&C/MLG/F.No. DOC/D No. 751, on the file of the 1st respondent herein viz., Assistant Divisional Engineer, Operation and Construction, Miryalguda in confirming the provisional assessment order dated 21.1.1995 made by the first respondent herein as illegal, void and without jurisdiction and contrary to BPMS No. 690 and

consequently direct not to disconnect the supply to the petitioner S.C.No. 178, in the interest of justice.

Counsel for the Petitioner:MR.L.PRABHAKAR REDDY

Counsel for the Respondent No.: SMT.M.VINOBHA DEVI

The Court made the following :

ORDER:

Heard both sides.

The petitioner herein who is the rice mill files this Writ Petition inter alia, seeking to assail the impugned orders with regard to final assessment made in regard to certain irregularities found in the inspection conducted by the authorities on 17.1.1995. This has been followed by the provisional assessment made on 21.1.1995 making the assessment at Rs. 78,964/- and ultimately, the final assessment was also made confirming the same. Even appeal filed by the petitioner was also dismissed. Though several contentions have been urged across the bar on merits and also denying the very allegations as to pilferage, however, the fact remains that both the authorities after taking into consideration the explanation given by the petitioner, held against the petitioner holding that the petitioner-Rice Mill is guilty of pilferage, and such finding of fact is binding on this court, and this court would not venture to go into the same by making any re-appreciation of evidence on record.

Though several contentions have been urged, the fact remains that the case pertains to the irregularities found in the inspection, which was conducted as long back as on 17.1.1995. Having regard to such long lapse of time and also in view of the fact that the petitioner is the Rice Mill, respondents ought not to have made the final assessment to an extent of Rs. 78,964/-, which on the face of it is on higher

side.

By taking into consideration the other facts and circumstances of the case, it would suffice in the interest of justice to reduce the same to 50% which comes to Rs. 39,482/-.

With the above observation, the Writ Petition is allowed in part and the petitioner is directed to pay Rs. 39,482/- for the energy pilfered. On such payment, the respondents are directed to restore the power supply to the petitioner i.e., Yadagiri Laxminarasimha Swamy Modern Rice Mill, Yacharam. No costs. It is needless to mention that any amount paid in the meanwhile, shall be given credit to.

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B. Prakash Rao, J

26th November, 2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, The Twenty Sixth Day of November Two Thousand and Four.

To

1. Assistant Divisional Engineer, Operation and Construction, APSEB, Miryalguda, nalgonda District.

2. Superintending Engineer, Operation, Andrha Pradesh State Electricity Board, Nalgonda.

3. Chief Engineer, Appellate Authority, Andhra Pradesh State Electricity Board Vidyouthsouda, Somajiguda, Hyderabad.

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